

## Chapter 4: Review of Key Policies and Planning Processes

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Shortly after statehood in 1850, California started studying its water resources. From the early 1900s, plans were developed and implemented to move water from the water-rich north to the water-poor south through the Delta and to provide irrigation water for the San Joaquin Valley. Since the late 1970s regional governance of the Delta, hub of the California water system, has been implemented at the local, regional, and State levels. The current governance proposal retains local control over most actions, retains the Delta Protection Commission with limited authority over some local land-use decisions, and introduces the new Delta Stewardship Council as coordinator of all State-level programs including water quality, water supply, habitat enhancement, public access and recreation, and land use. While multiple local, State and federal regulatory programs affect the Delta economy and Delta land uses, this chapter focuses on the current and required local and State programs that most directly impact the Delta.

### ***Water Conveyance***

As early as 1919, a statewide water development project envisioned moving Sacramento River water through the San Joaquin Valley and over the Tehachapis to Southern California. A plan to implement such a project was approved in a 1933 \$170 million bond act but the State turned over the lead to the federal government and the initial stages of the project including the construction of Shasta Dam, a pumping plant in the South Delta and the Delta Mendota Canal were completed in the 1950s as the federal Central Valley Project (CVP). A series of bills to expand the project was passed in the late 1950s and were funded by the 1960 California Water Resources Development Bond Act. This led in the 1960s to the State Water Project (SWP) which included the construction of Oroville Dam, a second pumping plant in the South Delta, the California Aqueduct, the pumping plant to lift water over the Tehachapis and terminal reservoirs in Southern California. The construction at this time also included the San Luis reservoir and canal which are components of the CVP and supply the Westlands Water District. In the early 1980s, legislation was proposed to construct a peripheral canal to convey water around the Delta to export pumps near Tracy to serve both the CVP and the SWP. The project was divisive and ultimately rejected by voters in June 1982.

Several years of drought, followed by downturns in Delta fisheries, led Governor Pete Wilson and Secretary of the Interior Bruce Babbitt to bring State and federal agencies to a joint CALFED process to address California and Delta water issues in 1994. The CALFED project resulted in a Record of Decision in 2000, which included multiple actions needed to address water and ecosystem management in the Delta and its watershed. The legislature established a State oversight body, the California Bay-Delta Authority. That body was later disbanded, and the CALFED program was folded into the California Natural Resources Agency. In 2006, the governor and legislature appointed a cabinet committee and a Delta Vision Blue-Ribbon Task Force to advise the cabinet committee. In 2007, the Task Force presented its Delta Vision and in 2008 prepared a strategic plan. In late 2009, the legislature enacted and the governor signed a package of laws to implement the recommendations creating the new Delta Stewardship Council, a Delta Conservancy, and modified the legislation authorizing the Delta Protection Commission (DPC), among other actions. Concurrently, work commenced around 2006 on an effort to obtain incidental take permits that would protect operations of the CVP and the SWP from repeated lawsuits based on the Endangered Species Act. This effort, known as the Bay Delta Conservation Plan (BDCP), is described in more detail below as is the Delta Vision process.

## Governance

In the early 1970s, as agricultural lands in the Delta counties came under pressure for development from residential and other users, the five Delta counties came together to develop a regional strategy for future development of the Delta. The Delta Area Planning Council (DAPC), created through a Memorandum of Understanding and funded by the counties, adopted a plan for the region which supported agricultural and recreational land uses. Funding for the Delta Area Planning Council dwindled in the late 1980s and interest in State-level planning and coordination increased in the late 1980s.

In 1992, after the State conducted studies and hearings about the need to plan for the future of the Delta and the protection of its critical natural resources, the legislature approved the Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992, authored by two assemblymembers and two senators, and signed into law by Governor Pete Wilson. The act created the DPC with membership from State agencies, local counties and cities, and Delta water agencies. Within the Legal Delta, defined in 1959 (Water Code Section 12220), the act divided the area into two zones: the Secondary Zone, which is the higher elevation and already-developed outer area of the Legal Delta, and the Primary Zone, the lower elevation and largely water-covered and agricultural lands in the “core” of the Legal Delta. The DPC was charged with preparing a land-use and resource-management plan for the Primary Zone of the Delta, addressing agriculture, recreation, and wildlife habitat on land areas. Control over the waters of the Delta remained with State and federal agencies. Action of local governments in the Primary Zone can be appealed to the DPC. Land uses in the Secondary Zone remain solely under the authority of local governments. The DPC has no authority over State or federal agencies or their programs or projects.<sup>26</sup>

### 1 County General Plans and the Delta

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General plans, first authorized in California in 1927, must now include seven elements: land use, open space, conservation, housing, circulation, noise, and safety. Each general plan is a comprehensive long-term plan for the physical development of the county or city serving as a “blueprint” for development. More guidance is outlined in specific plans and in each county or city’s zoning code; zoning codes are required to be in conformance with general plans. In 1993, each of the counties with lands within the Primary Zone supported agriculture, wildlife habitat, and recreation on Primary Zone lands. The unincorporated communities in the Primary Zone each have their own community plans/special area plans. These communities are Clarksburg in Yolo County, and Courtland, Locke, and Walnut Grove in Sacramento County. The City of Isleton is the only incorporated city in the Primary Zone and has its own general plan. Local government general plans do not apply to State or federal projects.

After the DPC adopted its original Land Use and Resource Management Plan for the Primary Zone of the Delta, each county and city was required to ensure that its general plan was consistent with the DPC’s plan. All of the county and city general plans covering the Primary Zone were determined to be consistent with the DPC’s plan although each county addresses these land uses and their protection in ways reflecting their community values and local history.

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<sup>26</sup> Please see Chapter 1 for a map of the Primary and Secondary Zones of the Sacramento-San Joaquin Delta.

## 1.1 Contra Costa County

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Contra Costa County has adopted an urban limit line; the Primary Zone within Contra Costa County is outside the urban limit line due to flood hazards, soil subsistence, lack of infrastructure, and lack of services. The areas to the north and east are designated Delta Recreation and Resources areas and portions of the Primary Zone are designated General Agriculture. The urban limit line will be reviewed in 2016.

### 1.1.1 General Plan (2005)

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Contra Costa County has a program, the Contra Costa County Land Preservation Plan Ordinance, to maintain a specific ratio between developed land and open space land: 65 percent of the county will be preserved for agriculture, open space, wetlands, parks, and other nonurban uses, and 35 percent may be used for urban development. This ratio was originally adopted by the voters in November 1990 and renewed by voters in November 2006. The Primary Zone is within the area to remain in open space and low-intensity uses.

The Contra Costa General Plan uses several zoning codes to identify and protect the unique Delta land uses and characteristics of the Primary Zone lands in Contra Costa County. The general plan designates most Delta islands and nearby tracts as a special Delta Recreation and Resources Zone. The designation recognizes the location in the 100-year flood plan, the limited services, and the value as agricultural land, as wildlife habitat, and for low-intensity recreation. In these areas, the county allows agricultural uses, and with a use permit, recreation uses such as marinas, hunting clubs, campgrounds, and other forms of outdoor recreation. Minimum parcel size is 20 acres. Publicly-owned park land and all golf courses are designated Parks and Recreation. Transportation and utility corridors are designated Public Facilities. Water area uses include docks, boating, and fishing. Publicly-owned land, wetlands, tidelands, and areas of significant ecological resources are designated Open Space. The areas west of Veale and Hotchkiss Tracts are designated Agricultural Land. The existing parcels are mostly between 10 and 50 acres. Jersey Island is designated Public/Semi-Public and has been used for disposal of treated wastewater.

**Agricultural Core:** The agricultural core is comprised of prime soils which are considered the very best soils for farming a variety of crops. The agricultural core is east, south, and west of the city of Brentwood. Intensive row crops are being grown on much of this land, and a portion of the agricultural core is within the 100-year flood plain. The purpose of the agricultural core designation is to preserve and protect the most productive farmlands of the county, and the designation requires a higher minimum parcel size; “ranchette” development is discouraged. Ranchettes are rural residential lots as small as one to two acres, often five or ten acres. Uses are the same as in the Agricultural Land designation; however wineries and olive oil mills are appropriate in the agricultural core with a use permit. Residential density is one unit per 40 acres.

Policy 3-54 requires all management and development actions in the Primary Zone to be consistent with the goals, policies, and provisions of the Land Use and Resource Management Plan for the Primary Zone of the Delta.

### 1.1.2 East County Area Plan

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An area plan for a portion of the Primary Zone in East Contra Costa County was adopted in 1985 and includes: Holland, Palm, Orwood Tracts, and Coney Island. Allowed uses include public and private outdoor recreation, equestrian facilities, wind energy systems, single family

residences on larger lots, quarries, oil and gas wells, pipelines and transmission lines, vet/kennels, and public uses.

### *1.1.3 City of Oakley*

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The City of Oakley was incorporated in 1999. In 2004 the DPC reviewed the city's general plan for consistency with the DPC's Plan. The only area of the City of Oakley in the Delta Primary Zone is a 200-foot-wide band of water-covered lands along the shoreline. The water-covered area includes Antioch/Oakley Regional Shoreline (fishing and picnic facilities at the base of the Antioch Bridge) and the new Big Break Regional Shoreline. Both facilities are owned and managed by the East Bay Regional Park District. The city's general plan was found consistent with the DPC's plan.

### *1.1.4 Knightsen*

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Within the Primary Zone in Contra Costa County is one unincorporated community, Knightsen. Located at the intersection of Knightsen Avenue and Delta Road, east of Brentwood and south of Oakley, Knightsen was founded in 1888 at a station on the Atchison, Topeka and Santa Fe Railway line. The community, represented by an appointed Knightsen Town Municipal Council, is home to an elementary school, a post office, and a couple of commercial enterprises. The surrounding community is agricultural. Due to its history and characteristics, Knightsen has been discussed as a potential Legacy Community. (See Chapter 10 for more information.)

## *1.2 Sacramento County*

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The county has an urban limit line; the Delta is outside the urban limit line. Within the Primary Zone, there are several unincorporated communities with residential and commercial development as well as scattered areas of residential development along waterways. County decision makers are advised by the Delta Municipal Advisory Council made up of Delta residents.

### *1.2.1 General Plan (1993, currently being updated)*

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The Sacramento County General Plan was adopted in December 1993. The general plan defines areas of future growth in the county; these areas are out of the Delta. However, seven of the eleven Legacy Communities identified in the 2009 Sacramento-San Joaquin River Delta Reform Act (PRC Section 32301(f)) are located within unincorporated Sacramento County. Land uses and future development in Freeport, Courtland, Locke, and Walnut Grove are subject to General Plan policies and typical zoning standards and to the land use and design standards in the Special Planning Area and Neighborhood Preservation Area Ordinances. The December 9, 1992 Land Use Diagram shows that the urban services boundary does not pass west of I-5. The land use diagram shows most of the Delta area designated as Agricultural Cropland. Areas of low-density residential use (1 to 12 dwelling units per acre) are located in the existing communities of Hood, Courtland, Locke, and Walnut Grove. Small areas are identified for Intensive Industrial and Extensive Industrial use south of Walnut Grove, along Twin Cities and River roads, and near Hood. The diagram shows recreational uses at the north tip of Sherman Island, Brannan Island State Park, the eastern portion of Andrus Island, the shoreline west of Isleton, and the area between the Delta Cross Channel and Locke. Several areas are identified as Natural Reserves including Lost Slough, Sherman Island Wildlife Area, the west tip of Grand Island, Stone Lakes, Delta Meadows, and the levees along Snodgrass, Sevenmile, and Steamboat sloughs.

The December 9, 1992 agricultural element of the general plan promotes protection of agricultural land, requires mitigation to provide in-kind protection when agricultural land is developed, promotes 300- to 500-foot-wide buffers between agricultural and non-agricultural uses; and sets minimum parcel sizes of 40 acres for soil classes I and II and 80 acres for soil classes III and IV.

The county does not accept applications to amend the land use diagram from recreational or agricultural cropland to any residential category, commercial and office, or industrial use unless the site is in the established Delta communities of Hood, Courtland, Locke, or Walnut Grove, or is a small expansion which supports the agricultural and recreational economies of the Delta.

The open space element of the general plan outlines strategies to protect critical open space resources of the county including acquisition of key areas and implementation programs to secure permanent open space, thus fixing the urban service boundary, and establishing open space linkages (natural land corridors).

The conservation element protects key resources including water and soil. Development is to be diverted from prime soil or soils of statewide importance; conversion of more than 50 acres of prime or statewide importance soils is deemed to have a significant environmental impact under the California Environmental Quality Act (CEQA); no golf courses are allowed on prime lands outside the urban service area boundary.

Issues currently under consideration in the updated general plan include revitalization of commercial corridors, inclusion of a new economic development element, analysis of future growth within the urban policy area and the urban services boundary, and smart growth principles.

### *1.2.2 The Delta Community Area Plan<sup>27</sup>*

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The Delta Community Area Plan (1983) designates most of the Delta as permanent agricultural land in 80-, 40-, and 20-acre parcels. Agricultural residential parcels are one and two acres. The communities of Hood, Courtland, and Walnut Grove are identified as locations for future residential development and commercial growth; residential development in the agricultural areas is discouraged.

Some water-covered areas are designated Delta Waterways and some as natural areas (Dolan Island, waterways near the tip of Sherman Island, a portion of Sevenmile and Snodgrass sloughs, and the south fork of the Mokelumne River), scenic areas (Steamboat, Sutter, and Georgiana sloughs), and restricted areas (Steamboat, Snodgrass, and Sevenmile sloughs). The area around Stone Lakes, much of Snodgrass Slough, the Delta Meadows area, the southwest tip of Grand Island, and Brannan Island State Park are designated Recreation Reserve. The islands at the tip of Sherman Island are designated Recreation with a Flood overlay.

Special plans have been prepared for the communities of Courtland, Hood, Locke, Walnut Grove, and Ryde and for the Lower Andrus Island Special Planning Area. These communities are the residential, commercial, processing, and retail centers in the Delta and have water and sewage treatment facilities and fire protection. These plans are codified in special zoning codes for Walnut Grove (1989) and Locke (2005).

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<sup>27</sup> Please refer to Chapter 10 for maps of the Hood, Courtland, and Walnut Grove communities.



Sacramento County is currently evaluating new Winery, Farm Stand, and Farm Stay Ordinances to set standards for agricultural industries and to promote agricultural tourism and to provide new economic development opportunities. The winery ordinance would allow small wineries (less than 15,000 cases produced annually) by right in the General Agricultural (AG) zones and some Agricultural-Residential zones; large wineries (51,001+ cases annually) located General Agriculture zones will be subject to the approval of a conditional use permit.

The farm stand ordinance will allow the sale of food products that are locally grown in General Agriculture zones, and some Agricultural-Residential zones.

The farm stay ordinance will facilitate the operation of farm stays, expand the understanding of the role of agriculture in the County, and provide farmers with an opportunity to diversify income potential. No more than five guest rooms would be allowed per farm stay operation.

### 1.3 San Joaquin County

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San Joaquin County promotes future growth within the existing cities and existing unincorporated communities. There are no unincorporated communities in San Joaquin County's portion of the Primary Zone; there are some permanent residents living at the large recreational development at Tower Park Marina in Terminous where Highway 12 meets Potato Slough.

#### 1.3.1 *General Plan (1992, currently being updated)*

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The county's general plan recognizes that the county will grow substantially in the future, but states that rural areas will accommodate minimal growth because open space and agricultural preservation are paramount in these areas. The County General Plan Map designates most of the Delta as General Agriculture. The waterways and channel islands are designated Resource Conservation. The general plan recognizes the Delta as an area of international importance and a major recreational, wildlife, agricultural, and economic resource.

There are two regional parks and one area designated Commercial Recreation at Terminous (Tower Park Marina). Commercial Recreation is defined as major development of at least 100 acres with potential of more than 500 people on a site. The general plan allows smaller areas of commercial recreation in agricultural areas because of specific location needs, such as direct access to natural resources. Typical uses include marinas, recreational vehicle parks, and golf courses. Commercial Recreation areas outside communities must have a public wastewater treatment system serving the entire planned area. The general plan states that recreational values of the Delta are to be protected, and that along the waterways, opportunities should be provided for bank fishing, boating, water skiing, hiking, bicycling, horseback riding, picnicking, and nature study. Waterway development and development on Delta islands is allowed to protect the natural beauty, the fisheries, wildlife, riparian vegetation, and the navigability of the water. The plan limits development on the Delta islands to water-dependent uses, recreation, and agricultural uses.

The open space policies of the general plan state that the Resource Conservation designation shall be used to protect significant resource areas, and that areas with serious development constraints, such as the Delta, should be predominantly maintained as open space. Policies also designate several Delta roads as scenic routes.

Agricultural lands make up the majority of the Primary Zone in San Joaquin County. The General Agriculture designation addresses areas where soils are capable of producing a wide

variety of crops, where parcel sizes are large enough to support commercial agricultural activities, and where there is an existing commitment to commercial agriculture. In areas designated General Agriculture, development density is a maximum of one primary dwelling unit per 20 acres; additional dwelling units for farm employee housing and farm labor camps may be permitted. Minimum parcel sizes are 20 to 40 acres where irrigation water is available, 80 to 160 acres where water is not available for irrigation.

Uses allowed in the General Agriculture designation include crop production, feed and grain storage and sales, aerial crop spraying, and animal raising and sales. Additional activities such as resource recovery, dairy and canning operations, stockyards, and animal feed lots and sale yards require permits. The general plan prohibits further fragmentation of land designated for agricultural use. Parcels for home sites may be created, provided that the general plan density is not exceeded; a parcel may be created for a use granted by permit in the AG zone. Non-agricultural land uses at the edge of agricultural areas are required to incorporate adequate buffers (e.g., fences and setbacks) to prevent conflicts with adjoining agricultural operations.

## 1.4 Solano County

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Development in Solano County is directed by county and city policies into the existing cities: Vacaville, Fairfield, Rio Vista, Vallejo, Suisun City, Dixon, and Benicia. Much of the land in the Primary Zone is above sea level and distant from the sloughs and rivers that provide riparian water for agriculture. There is also very little recreational development in the Primary Zone in Solano County. Portions of Prospect Island are designated Open Space: Marsh. An orderly growth initiative, Proposition A, passed in 1984, prohibits the Board of Supervisors from changing the general plan designation on agricultural lands, except in very limited circumstances. In 2008 voters adopted Measure T, which extends the Orderly Growth Initiative through 2028. There are no unincorporated communities in the Primary Zone in Solano County.

### 1.4.1 General Plan (2008)

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Delta lands are designated Intensive Agriculture, if irrigated, and Extensive Agriculture, if not irrigated. Irrigated land is 80-acre minimum parcel or 40-acre minimum parcel for highly productive areas (orchard or vineyard). Unirrigated land is 160-acre minimum parcel size. The parcel sizes are based on the concept of “farmable unit,” defined as the size of parcels a farmer would consider leasing or purchasing for different agricultural purposes.

The general plan calls for protection of wetlands and riparian vegetation through formation and retention of parcels of sufficient size to preserve wetlands and protection of these lands from effects of development.

The general plan emphasizes the preservation of agricultural resources, opportunities for value-added agricultural activities, and agritourism, all to enhance agricultural economic viability.

### 1.4.2 City of Rio Vista<sup>28</sup>

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General Plan 2001, adopted July 2002, includes policies that state “the City shall continue to support prohibitions/restriction on development within the Delta Protection Commission’s Primary and Secondary Zones.” (Policy 3.7.A (page 3-20) and that “The City shall seek to remove lands from the existing Sphere of Influence that are currently within the boundaries of the Delta and any lands that are placed in an open space land trust.” (Policy 3.7.B, page 3-20). Within the current boundary of the Primary Zone, the General Plan depicts existing land uses

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<sup>28</sup> Please refer to Chapter 10 for maps of the City of Rio Vista with respect to the Primary Zone.

included: airport, sewage treatment plant, heavy commercial/light industrial uses, and landfill. A triangular area northeast of Airport Road, the boundary of the Primary Zone, and bounded by the Sacramento River, is designated SA, Study Area. Most of the land uses were in place in 1993, and only minor modifications have been approved since then. General Plan 2001 supports study of a future replacement for the current bridge across the Sacramento River and supports use of Airport Road as a future means to move additional traffic above the capacity of State Highway 12. The General Plan does not support a bypass of the City of Rio Vista to the north or the south.

## 1.5 Yolo County

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About half of Yolo County land within the Primary Zone is in the Yolo Bypass, a flood basin which is part of the federal flood control project between Collinsville and Red Bluff. The Yolo Bypass is west of the Port of Sacramento Deep Water Ship Channel and bounded by a levee located along the Yolo County-Solano County boundary. The eastern portion of Yolo County includes the unincorporated community of Clarksburg, Merritt Island, and agricultural lands in Reclamation districts 999 and 307.

### 1.5.1 2030 Countywide General Plan (2009)

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The general plan designates Delta lands as A-1, Agricultural General Zone, and A-P, Agricultural Preserve for lands in Williamson Act contracts. AG policies in the county's general plan are protective of agricultural uses. New residential, suburban, commercial, and industrial uses are prohibited, unless directly related to and incidental to agriculture. Residential uses in agricultural areas are limited to farm owners or employees, and are directed toward lands unsuited for agricultural use. The general plan includes an Agriculture and Economic Development Element in support of agriculture, the primary economic driver of Yolo County. The element identifies wine grapes as the largest single crop in the fruit and nut category and describes the 64,640-acre Clarksburg appellation, which has 10 wineries and 11,000 acres of vineyards. The Agriculture and Economic Development Element also describes the key factors supporting agriculture: soil, important farmlands, water, crops, and agricultural infrastructure. The element supports compatibility with the Delta Plan (AG-6.1-4) and seeks to support and enhance the existing rural economy. The section on economic development emphasizes tourism and describes how services for tourists will also benefit local residents, and supports expansion of tourism "in a manner consistent with Yolo County's agricultural and open space emphasis."

### 1.5.2 Clarksburg General Plan<sup>29</sup>

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There is one unincorporated community in the Primary Zone in Yolo County. A special plan has been prepared for the community of Clarksburg. The plan outlines areas for new residential growth, although the community has no community water or sewage disposal systems. No significant intensification of commercial and residential land use is proposed. The plan includes an urban limit line.

### 1.5.3 Clarksburg Agricultural District

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In 2008, a new 40,000-acre agricultural district was adopted for Clarksburg, which supported wine grape growing, agricultural tourism, river- and Delta-related tourism, a historic mill site with boutique wineries, and creation of one wine appellation to include Clarksburg and Merritt Island Appellations. While this area is only 9 percent of the county's active farmland, it produces

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<sup>29</sup> Please refer to Chapter 10 for maps the Clarksburg community.



almost 22 percent of the total value of the county's top five crops. The county is considering an array of possible tools that could be applied within the district including new regulatory standards, marketing assistance, lowering fees, allowing additional on-site housing, and designating economic focus points. The overlay district supports agricultural business development and expansion, including processing, commercial sales, and agricultural tourism. The county is evaluating agricultural commercial and agricultural industrial sites of about 100 acres in the Clarksburg area.

## 2 Delta Protection Commission Land Use and Resource Management Plan

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In the 1980s, the State Lands Commission prepared a study of the Delta and its challenges. Subsequently the state senate created a Delta subcommittee to survey stakeholders and issue a report. Sen. Patrick Johnston worked with several other legislators during a two-year legislation-drafting process that culminated in passage of the Delta Protection Act of 1992. The act established the Delta Protection Commission (DPC), a State entity to plan for and guide the conservation and enhancement of the natural resources of the Delta, while sustaining agriculture and meeting increased recreational demand. The act defines a Primary Zone, which comprises the principal jurisdiction of the DPC, the largely agricultural, water, and open space areas in the center of the Legal Delta. The Secondary Zone is the area outside the Primary Zone and within the "Legal Delta (Water Code Section 12220)"; the Secondary Zone is not within the planning area of the DPC.

The Delta Protection Act requires the DPC to prepare, adopt, review, and maintain a comprehensive long-term resource management plan for land uses within the Primary Zone. The plan describes the needs and goals for the Delta and presents a statement of the policies, standards, and elements of the plan. Within 180 days of the adoption of the plan (or any amendments) by the commission, all local governments are required to submit proposed amendments to their general plans to the DPC. The amendments are required to ensure that local government general plans are consistent with the DPC's plan. The plan applies to land uses, not to water supply or water quality, and generally addresses local government issues and actions, not those of State or federal agencies. After adoption of the plan, local government actions could be appealed to the DPC for review of consistency with the land use plan. The DPC has no authority over State or federal agency projects or programs.

The Primary Zone includes approximately 500,000 acres of waterways, levees, and farmed lands extending over portions of five counties: Solano, Yolo, Sacramento, San Joaquin, and Contra Costa. The peat soil in the central Delta and the mineral soils in the higher elevations support a strong agricultural economy. The Delta lands currently have access to the 1,000 miles of rivers and sloughs throughout the region for irrigation water. These waterways provide habitats for many aquatic species and the uplands provide year-round and seasonal habitats and are popular for recreation. The goals of the plan are to "protect, maintain, and where possible, enhance and restore the overall quality of the Delta environment, including but not limited to agriculture, wildlife habitats, and recreational activities; assure orderly, balanced conservation and development of Delta land resources and improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety."

The plan was drafted, reviewed, and adopted by the DPC on February 23, 1995. The policies of the Plan were adopted as regulations in December 2000. To ensure that the plan remained current, the DPC established a planning advisory committee that began meeting in September 2008. The committee, which represented a broad spectrum of Delta interests, met over several months and prepared draft revisions to the plan in December 2008. The revisions were

presented at public workshops throughout the Delta and to the DPC in March 2009. After holding multiple public hearings, the DPC adopted revisions to the plan on February 26, 2010.

The plan consists of three sections: Part I, the Introduction; Part II, Elements; and Part III, Program Implementation. Each element includes an introductory discussion, which provides the framework from which the goals and policies are derived. Policies are the directions for action the local governments must embrace and support through local general plans. The elements address land use, agriculture, natural resources, recreation, and access (including marine patrol, boater education, and safety programs), water, levees, and utilities and infrastructure. Legislation passed in 2009 modified the membership of the DPC and added new tasks including preparation of a Delta Economic Sustainability Plan for submittal to the Delta Stewardship Council.

### 3 State of California Planning for the Delta

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Since 1991 the governor's office has directed State agencies to work together and with federal agencies to identify problems and possible solutions to Delta issues such as ensuring water supplies for export to the Central Valley, Southern California, and the Bay Area. Also since 1991, Cabinet secretaries were convened as the Governor's Water Council, Club Fed was created to provide coordination on Delta water issues, and CALFED was created by the Bay-Delta Accord, all resulting in the Record of Decision, adopted in 2000, outlining a plan of action for the Delta and its watershed. A new agency, the California Bay Delta Authority, was created by the California state legislature to implement the Record of Decision, reorganize, and then move to existing State agencies, but for multiple reasons, including lack of financial support from the federal government, this process was not brought to fruition. Governor Arnold Schwarzenegger then authorized a new planning process in 2006 under the Delta Vision Blue Ribbon Task Force.

#### 3.1 Delta Vision

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In 2006, Governor Schwarzenegger established a two-year planning process for the Delta through Executive Order S-17-06. A Blue Ribbon Task force of seven appointed citizens supervised preparation of a Delta Vision for adoption and submittal to the Delta Vision Committee. The Delta Vision Committee—five cabinet secretaries for resources, environmental protection, business, transportation and housing, public utilities commission and food and agriculture—submitted a report based on the Delta Vision to the governor at the end of 2008. Also participating in the process were a 43-member Stakeholder Coordination Group, work groups, and state agency staffs. Phil Eisenberg, Chair of the Blue Ribbon Task Force, was subsequently appointed Chair of the Delta Stewardship Council.

The Delta Vision, completed in October 2008, includes 12 visions recommendations based on seven goals. Within each goal, the Delta Vision includes strategies and recommended actions to implement those strategies. Many of the actions were incorporated into the suite of legislation passed by the California legislature in 2009. The Delta Vision goals include:

- Goal 1: Legally acknowledge the coequal goals of restoring the Delta ecosystem and creating a more reliable water supply for California
- Goal 2: Recognize and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place, an action critical to achieving the coequal goals
- Goal 3: Restore the Delta ecosystem as the heart of a healthy estuary
- Goal 4: Promote statewide water conservation, efficiency, and sustainable use

- Goal 5: Build facilities to improve the existing water conveyance system and expand statewide storage, and operate both to achieve the coequal goals
- Goal 6: Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and strategic levee investments
- Goal 7 Establish a new governance structure with the authority, responsibility, accountability, science support, and secure funding to achieve these goals

Within Goal 2, the Delta Vision more specifically recommended the following actions.

- Application for federal designation of the Delta as a National Heritage Area and expansion of the State Recreation Area network in the Delta
- Establishment of market incentives and infrastructure to protect, refocus, and enhance the economic and public values of the Delta agriculture
- Develop a regional economic plan to support increased investment in agriculture, recreation, tourism, and other resilient land uses
- Establishment of a Delta Investment Fund to provide funds for regional economic development and adaption
- Adoption of land use policies that enhance the Delta's unique values and that are compatible with public safety, levee, and infrastructure strategies in Goal 6

These specific strategies in Goal 2 are considered in more detail in subsequent chapters.

### 3.2 Sacramento-San Joaquin Delta Conservancy

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The 2009 suite of legislation created the Sacramento-San Joaquin Delta Conservancy to act as a primary State agency to implement ecosystem restoration in the Legal Delta and to support environmental protection and the economic well-being of Delta residents. The Delta Conservancy can also fund projects in the Suisun Marsh, west of the Legal Delta. The 12 tasks assigned to the Delta Conservancy are listed below.

1. Protect and enhance habitat and habitat restoration.
2. Protect and preserve Delta agriculture and working landscapes.
3. Provide increased opportunities for tourism and recreation.
4. Promote Delta Legacy Communities and economic vitality in the Delta in coordination with the Delta Protection Commission.
5. Increase the resilience of the Delta to the effects of natural disasters such as floods and earthquakes, in coordination with the Delta Protection Commission.
6. Protect and improve water quality.
7. Assist the Delta regional economy through the operation of the Delta Conservancy's program.
8. Identify priority projects and initiatives for which funding is needed.
9. Protect, conserve, and restore the region's physical, agricultural, cultural, historical, and living resources.
10. Assist local entities in the implementation of their habitat conservation plans and natural community conservation plans.
11. Facilitate protection and safe-harbor agreements under the federal Endangered Species Act of 1973 and the California Endangered Species Act for adjacent land owners and local public agencies.
12. Promote environmental education.

The Conservancy is governed by a board consisting of 11 voting members and two non-voting members (State Senate member and State Assembly member), and 10 liaison advisors representing local, State, and federal environmental and economic interests in the Delta.

Members are appointed by each of the five Delta county boards of supervisors, by the governor, and by the California Senate and Assembly. The liaison advisors are appointed by their respective agencies or organizations. The Delta Conservancy adopted an interim strategic plan in January 2011 and will adopt a final strategic plan by January 2013.

### 3.3 Delta Reform Act of 2009

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The Delta Reform Act of 2009 (SB X7 1, Steinberg) includes multiple actions and programs. The act establishes the seven-member Delta Stewardship Council and directs completion of its Delta plan by January 1, 2012.

In addition, the Delta Stewardship Council is directed to appoint an independent science board, engage the federal government, , and start Delta ecosystem restoration projects. The act also requires improved reporting of water diversions and uses, imposes penalties for those violating water rights laws, improves monitoring and reporting to the State Water Board, authorizes the State Water Board to initiate statutory adjudications, requires appointment of a Delta Watermaster, and expands water rights fee authority.

The act sets a statewide target of 20 percent reduction in urban per capita water use by 2020 and requires most agricultural water supplies to prepare and adopt water management plans by 2012. The act creates a new Sacramento-San Joaquin Delta Conservancy for the Delta and the Suisun Marsh. In addition, the act reconstituted the DPC and required preparation of a regional economic sustainability plan.

The act moves the state toward a groundwater basin monitoring program by 2012. The Act requires the State Water Board to develop new flow criteria for the Delta ecosystem to protect public trust resources, and to develop a schedule to complete instream flow studies for the Delta watershed by 2012 and for rivers and streams outside the Sacramento River watershed by 2018.

### 3.4 Delta Stewardship Council Delta Plan

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The primary responsibility of the Delta Stewardship Council is to develop, adopt, and implement by January 1, 2012, a legally enforceable, comprehensive, long-term management plan for the Sacramento-San Joaquin Delta and the Suisun Marsh—the Delta Plan—that will achieve the coequal goals of “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem” and does this “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”

The Delta Stewardship Council is to achieve the following objectives.

- a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
- b) Protect and enhance the unique cultural, recreational, and agricultural values of the Delta as an evolving place.
- c) Restore the Delta ecosystem, including fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- d) Promote statewide water conservation, water-use efficiency, and sustainable water use.
- e) Improve water quality to protect human health and the environment consistent with achieving water-quality objectives in the Delta.
- f) Improve the water conveyance system and expand statewide water storage.

- g) Reduce risks to people, property, and State interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The 2012 Delta Plan is to be a long-term management plan and will be updated every five years. Some elements of the Delta Plan will have regulatory effects. Any plan, project, or program that meets certain criteria will be subject to regulations included in the Delta Plan, and the project proponents must certify consistency with the Delta Plan.

The Delta Plan will include a series of non-regulatory recommendations to be considered by other agencies, the legislature, or the governor.

The Delta Plan will present a view of the diversity of the water supply system and its components, including demands for water and how water is currently used, together with the need for an improved Delta ecosystem. The planning time frame is year 2100, using monitoring and adjusting of decisions, “adaptive management,” informed by the best available science. Additional components of the Delta Plan include emergency response plans for each of the Delta counties and for the State and federal water projects, the DPC’s Economic Sustainability Plan for the Delta, and the Department of Parks and Recreation’s Delta Recreation Plan (released May 2011). A proposed financing plan will also be included in the Delta Plan; legislative action will be required to implement a financing plan.

The Delta Plan will also include regulatory policies and recommendations for actions that will contribute to enhanced water supply reliability, reduce reliance on water exports from the Delta in meeting California’s future water supply needs, help restore the Delta ecosystem, reduce flood risk, and improve the collection of water use data and other information that will guide the next Delta Plan update. For the current draft of the Delta Plan, see <http://deltacouncil.ca.gov/>

#### 4 Bay Delta Conservation Plan

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The Bay Delta Conservation Plan (BDCP) is being prepared through a collaboration of state, federal, and local water agencies, state and federal fish agencies, environmental organizations, and other interested parties with the goal of protecting and restoring the ecological health of the Delta and providing a more reliable water supply. The BDCP is being developed in compliance with the Federal Endangered Species Act (ESA) and the California Natural Communities Conservation Planning Act (NCCPA) and will, if completed, provide the basis for the issuance of endangered species permits for the operation of the state and federal water projects for the next 50 years.

This multi-stakeholder Habitat Conservation Plan/Natural Communities Conservation Plan process has been underway since 2006. The BDCP and a companion program known as the Delta Habitat Conservation and Conveyance Plan (DHCCP), which involves design of improved conveyance facilities and preparation of environmental documents to cover construction of the preferred alternative, is financed entirely by the State and Federal Water Contractors, the agencies that receive water deliveries from the SWP and the CVP. However, the BDCP and DHCCP processes are managed by the California Resources Agency and the Department of Water Resources. Delta stakeholders have been excluded from much of the BDCP process, and continue to be excluded from the BDCP management committee despite efforts by the Brown administration in 2011 to be more inclusive through the creation of working groups.



The goal was to have a completed BDCP and a record of decision by the end of 2010 but that deadline was not met. Instead, a working draft was issued in November 2010 to show progress and illustrate the current state of the plan.

The over 1,100-page November 2010 draft addresses impacts to 11 species of fish, 6 species of mammals, 12 species of birds, 2 species of reptiles, 3 species of amphibians, 8 species of invertebrates, and 21 species of plants.. For the aquatic species, the draft addresses multiple stressors including: habitat loss and modification, food limitations, altered flows, passage impediments and barriers, water quality, entrainment, predators, illegal harvest, stranding, and dredging. A principal conclusion in the draft is that addressing the identified stressors will require creation of thousands of acres of aquatic habitat and construction of multiple new intakes in the North Delta and movement of export water around the Delta to the conveyance canals.<sup>30</sup>

The November 2010 Draft was reviewed by a panel appointed by the National Research Council at the request of Senator Feinstein and the Secretary for the Interior. The panel released its findings in May 2011.<sup>31</sup> This review criticized the BDCP for rushing to a preferred alternative – an isolated conveyance around the Delta – before evaluating different approaches to determine how well they achieve preferred outcomes; for failing to incorporate the best available scientific information about the Delta ecosystem; for ignoring the freshwater flow needs of the Delta ecosystem and San Francisco Bay and omitting any consideration of water conservation as part of the plan for lacking a clear overarching strategy or clear goals and objectives.

However, by the time the NRC review was released, the management of the BDCP and DHCCP processes had been taken over by the new Brown administration and the processes had been reorganized to some extent. The new administration promised more transparency in decision making and is working to address the criticisms made by the NRC panel. Their current goal is to issue a public draft of the EIR/EIS by June 2012 and to obtain a record of decision by February 2013. Five alternatives for improved conveyance, which actually expand to ten when alternatives within alternatives are considered,<sup>32</sup> are currently being examined in the EIR/EIS process. However, only the “preferred alternative” of the November 2010 draft, which consists of five new 3,000 cfs intakes on the Sacramento River in the North Delta and twin tunnels under the Delta, is being subjected to a complete effects analysis.<sup>33</sup>

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<sup>30</sup> The November 2010 draft is available on the BDCP web site:

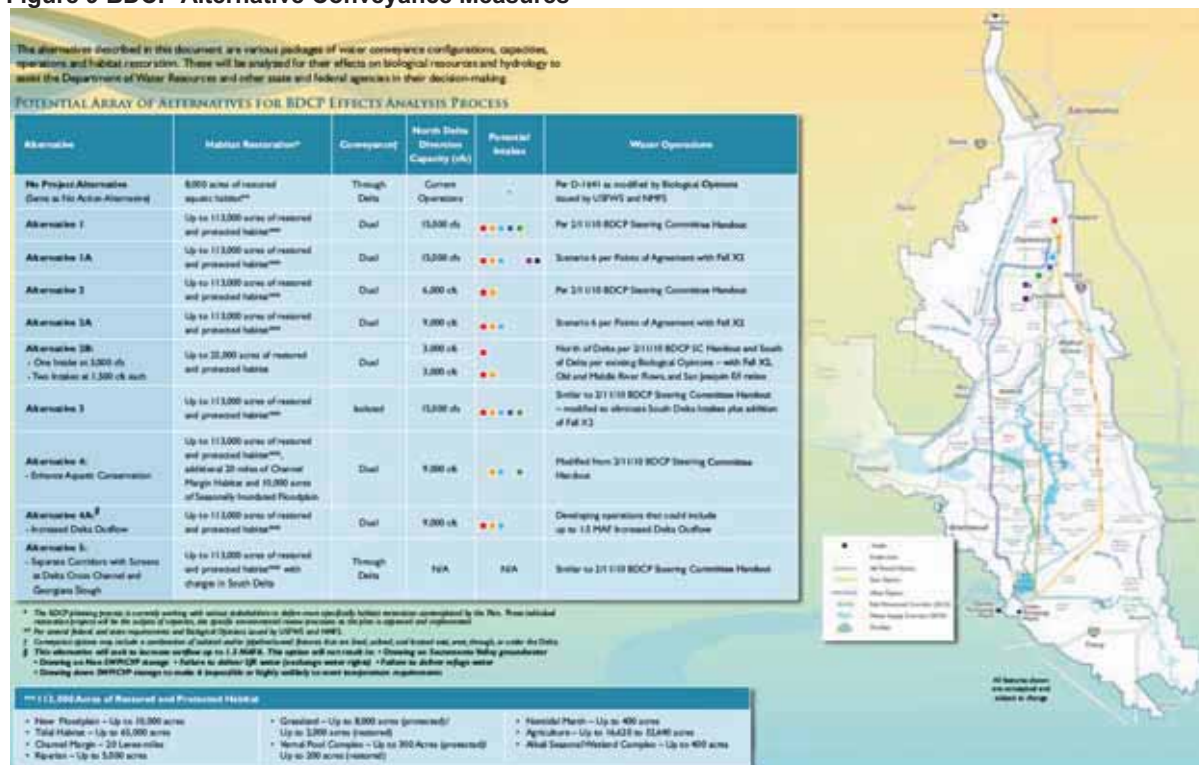
<http://baydeltaconservationplan.com/BDCPPlanningProcess/DocumentsAndDrafts.aspx>

<sup>31</sup> [http://www.nap.edu/catalog.php?record\\_id=13148](http://www.nap.edu/catalog.php?record_id=13148)

<sup>32</sup> <http://baydeltaconservationplan.com/News/News.aspx>: Conveyance Presentation\_September 2011\_FINAL.pdf; 08-11-BDCP-EIR-EISFactSheet\_v5.pdf

<sup>33</sup> Page A-60 in *Appendix A: Conceptual Foundation and Analytical Framework for Effects Analysis, Administrative Draft Bay Delta Conservation Plan*. September 2011. Accessed at: [http://www.deltacouncil.ca.gov/sites/default/files/documents/files/App\\_A\\_Conceptual\\_Foundation\\_Analytical%20Framework\\_092911\\_v\\_DSP.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/App_A_Conceptual_Foundation_Analytical%20Framework_092911_v_DSP.pdf)

Figure 9 BDCP Alternative Conveyance Measures<sup>34</sup>



The selection of the alternatives that are under study and the possibility of completing satisfactory studies on this new schedule has been questioned by an influential group environmental NGOs<sup>35</sup> amongst others and the BDCP remains an evolving work in progress at this time.

## 5 Conclusions

Water is extremely valuable to all Californians. Adequate water supplies are critically important to agriculture and industry, and for urban health and resource protection. Northern California is a significant source of the state's water projects' exports, and this water moves through the Sacramento-San Joaquin Delta. USGS notes that of the 22 million acre feet of annual discharge generated in the Sacramento River Basin, 11.6 million acre feet are used in basin and six million acre feet are exported to the water projects. Many programs and plans have been developed over the last 100 years to transport this water to agricultural and urban users in other parts of the state. All these programs and plans included elements to protect the riparian water rights of upstream rights holders and Delta water rights holders. These water rights are key to the longevity and vitality of Delta agriculture and the Delta region as a whole.

In recent decades, much effort has been made to promote the health of the Delta by a variety of agencies, commissions, and other governmental bodies. Today, local and State agencies have long-standing policies and programs to protect and enhance the natural resources, recreational

<sup>34</sup> For a better resolution image see <http://forecast.pacific.edu/desp-figs.html>. Source: BDCP Alternatives Factsheet, August 2011 Update. Accessed at: [http://bdcpweb.com/Libraries/2011\\_Working\\_Groups/08-11-BDCP-EIR-EISFACTSHEET\\_V5.sflb.ashx](http://bdcpweb.com/Libraries/2011_Working_Groups/08-11-BDCP-EIR-EISFACTSHEET_V5.sflb.ashx)

<sup>35</sup> Letter of August 23 from American Rivers et al. to Jerry Meral and David Nawi; letter of September 30 from American Rivers et al. to John Laird and David Hayes, see <http://aquaforia.com/archives/55439>

values, and wildlife habitats in the Delta Primary Zone—the agricultural, riparian, and water-based area in the core of the Delta. Other State and federal programs are in place to protect Delta resources and support local government plans that have been in place since the early 1980s. Stewardship of Delta water resources continues to evolve as issues such as sustainability, water supply and quality, habitat, and access become more complex.

Local planning efforts continue to evolve to address the needs of each jurisdiction as economic, political and environmental forces affect local land uses and societal changes. The State programs currently under development should evaluate the needs and impacts on each county as well as the Delta as a region in order to direct appropriate resources to address the economic needs and impacts identified in the Delta.